

DRACUT ZONING BOARD OF APPEALS

Meeting Minutes of October 22, 2015 at 7:00 p.m. @ Dracut Town Hall Selectmen's Meeting Room, 62 Arlington Street, Dracut.

2015-5 @ 500 & 502 Nashua Road – Variances under Section 2.12.50, Table of Dimensional Requirements of the Dracut Zoning By-Laws to eliminate building encroachments.

Chairman Crowley opened the meeting and signed in a set of prints drawn by Michael D. Bovio, Professional Land Surveyor dated June 3, 2015 with a revision date of August 31, 2015.

Mr. Jeffrey Hannaford will be presenting for his client Mr. Jay Patel, 639 Mammoth Road, Dracut, prospective buyer of 502 Nashua Road. They are before the Board concerning 500 and 502 Nashua Road. The original subdivision plan for this area dates back to 1910 which included a number of lots that were 20-30 feet wide strips of land that were combined by various purchases. Mr. Hannaford traced it back to the 1950's at which time the existing 502 Nashua Road, shown as Parcel B on the plot plan, with the majority of the property on Nashua Road, but also has a strip that comes across the top of 500 Nashua Road to Tyngsboro Road. The 500 Nashua Road property, shown as Parcel A, is on the corner of Nashua Road and Tyngsboro Road. When the property was developed quite a while ago, a number of the structures were built with apparently no adequate survey done as to where the structures ended up. This left two encroachments, one from each parcel onto the other. The main reason they are here is to straighten out an encroachment issue. The existing main building on 502 encroaches on 500 at the easterly edge of the 502 property. The existing detached garage for 500 encroaches onto 502. Mr. Patel is purchasing 502 from Mrs. Francis Grondine. The owners of 500 have been approached with regards to this issue also. The 500 property is owned by Manual and Kathleen Farley who are present.

Mr. Hannaford stated the solution they came up with was to change the lot line on the plan shown so the new lot line fits between the 500 garage and the building for 502, comes forward, jogs over and back to Nashua Road. The 500 property would pick up the small strip at the top of the property that runs along 15 Tyngsboro Road. The detached garage would belong to 500 Nashua Road. On the 502 Nashua Road property they would create an easement for access to the garage off of Nashua Road so in perpetuity the owners of 500 Nashua Road would have use of the garage.

Mr. Hamilton questioned the letter submitted by Mr. Hannaford of Norse Design Services dated August 31, 2015. Mr. Hannaford reviewed the letter stating it only indicates what variances they are looking for, not what is provided. Mr. Hannaford reviewed the variances that they are looking for on each property.

On 500 Nashua Road they are asking for a variance of 9,155 sq. ft. for the minimum lot area, side yard setback of 18.2 ft. for the existing garage to the new property line between the existing building on 502 Nashua Road and rear yard setback for the garage of 6 ft. to the 15 Tyngsboro Road property.

On 502 Nashua Road they are asking for a variance of 15,232 sq. ft. for the minimum lot area, lot frontage of 48.34 ft. from Nashua Road, front yard setback of 11.8 ft. off Pare Avenue, side yard setback of 18.3 ft. at the lower left corner of the building and rear yard setback of 12.9 ft. at the rear of the building.

Chairman Crowley questioned that when the 500 property was sold in 2005 the encroachments were not picked up on the deed search. Mr. Hannaford could not speak to that as he was not involved. When there was a petition before the Board back in 1991, Chairman Crowley noted that the surveyor showed this as one lot. He questioned when this subdivision occurred. Mr. Hannaford presented deeds from the 1950's that has a description of the two separate parcels.

Mr. Hamilton wants to know the side setback for the existing garage on 500 Nashua Road to the proposed lot line between 500 and 502 as it is not marked and may also need a variance. Mr. Hannaford does not have it on the plan. Mr. Hamilton is not convinced it is 15 feet.

Chairman Crowley asked if the service station on 502 had even been decommissioned. Mr. Patel answered he does not believe so. Chairman Crowley asked if the tanks were still in the ground, how old they were and where they are located. Mr. Patel stated the tanks are still in the ground, but no one had an answer for the tanks age or location. Chairman Crowley questions if they will land up on the same piece of property. He asked if they had received a notice from DEP to remove the tanks. Mr. Patel stated that regarding DEP they were notified only that there was some soil that needed to be removed. They had a Contractor do a survey and they said it had nothing to do with the tanks. Mr. Patel noted that the tanks are double fiber walls so they cannot be more than 30 years old.

Mr. Charles Grondine, 34 Mascuppic Trail, Tyngsboro asked what the distance was from his mother's house at 15 Tyngsboro Road to the new lot line. It is not marked on the plan, but that lot line is not changing.

Mr. Duggan, Town Manager is concerned about what is going to happen with the gas station. The town has been working very hard in the community looking at neglected property. There are many sensitive issues regarding the gas station. He would clearly support and recommend that some kind of a solution is able to come through the Board so that a disposition of the gas station can happen. The alternative is that there is a potentially environmentally sensitive situation, an eye sore, a neglected property, there are back taxes on it and it is on a main thorough fare. He knows there is a lot of confusion about the lot lines, but his concern is the quality of life in the surrounding area. He hopes the Board will try and work through to resolve so the Town can get an active parcel back in service in some capacity.

Mr. Hannaford requested a short recess to confer with his client.

Chairman Crowley reopened the hearing.

Mr. Hannaford understands the issue of the missing dimension from the existing garage to the proposed lot line. He would like to discuss the issue that the Chairman brought up with regards to a plan showing this as a single lot and what implication it would have on the decision for the plan before the Board.

Chairman Crowley views this as a piece of property and a subdivision of two (2) nonconforming lots. The lot as it stands itself does not meet the minimum requirements for a B1 Zone and what we will wind up with is two (2) lots that do not meet the minimum requirements. Mr. Hannaford's contention is that it is already two (2) lots with encroachments. Chairman Crowley thinks it has been subdivision by deed over the years and it has never actually stood for a formal subdivision as these discrepancies that are in the lot lines would never have been permitted.

There was a discussion about this being a subdivision. Mr. Hannaford stated they will have to go to the Planning Board if they get the variances requested.

Mr. Hannaford would like to continue the hearing so they can answer the question regarding the dimension from the existing garage to the proposed lot line. He is not sure about the answer to the plan mentioned by the Chairman.

Mr. Hamilton is concerned about the practicality of setting a new lot line in a very narrow area between the garage and the concrete building with regards to accessibility. There is only about 3 feet. Mr. Hamilton questioned if there is a safety issue regarding the new lot line. Chairman Crowley thinks there may be a building code issue as well.

Mr. McLaughlin, Building Inspector noted there would be a fire separation distance issue by the creation of the proposed lot line. There already is one, but as with all building code issues they can be solved by using non-combustible construction. If the roof overhangs are combustible now, they would have to be made non-combustible. He noted that two (2) buildings on the same lot do not have that issue. There was a discussion about how the lots would be divided and where the buildings would end up. If separated into two (2) lots then there will be an issue with fire separation if the lot line is created between the two buildings. At the moment the lot line goes through both buildings which is not correct. If you create a new lot line that goes between the two buildings you now have a fire separation distance issue that is solvable.

Mr. Mallory asked if the Board agreed to the new lot line, would the fire separation distance issue have to be addressed by the existing home owners. Mr. McLaughlin answered yes.

Mr. Patel plans to renovate the property, address any DEP issues and open back up as a gas station.

Abutters: Who came forward in favor or in opposition?

Emily Grondine, 15 Tyngsboro Road – She is not opposed to this plan, but is concerned about the wishing well that her husband made years ago and she maintains on the property that she thought was hers. It was determined that the wishing well was never on her property. It now sits on 502 Nashua Road and will end up on 500 Nashua Road with this plan. Her property will not change with the proposed plan.

Manuel & Kathleen Farley, 500 Nashua Road – They stated Mrs. Grondine can maintain the well as long as she wants.

A motion to continue to the November 19, 2015 meeting for a revised plan was made by Mr. Hamilton and seconded by Mr. Lussier. Those voting in favor were Mr. Hamilton, Mr. Mallory, Ms. Santiago-Hutchings and Mr. Lussier with Mr. Crowley voting against. The motion passed on a four (4) to one (1) vote.

Acceptance of Minutes:

A motion to accept the September 17, 2015 minutes was made by Mr. Scott Mallory and seconded by Mr. Stephen Hamilton. The Board voted unanimously to accept the minutes.

Old Business:

Chairman Crowley announced that one additional member is needed for the Board.

New Business:

None.

Next Meeting:

Thursday, November 19, 2015

Mr. Richard Ahern will not be able to attend.

Adjournment:

A motion to adjourn was made by Mr. Stephen Hamilton and seconded by Mr. Brian Lussier. The Board voted unanimously to adjourn.

Board of Appeals Members

Chairman, John Crowley

Vice Chairman, Stephen Hamilton

Clerk, R. Scott Mallory

Member, Heather Santiago-
Hutchings

Alternate Member, Brian Lussier

Alternate Member, Richard Ahern